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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Review of the Commission's	)	MM Docket No. 95-92
Regulations Governing Programming	)	
Practices of Broadcast Television	)	
Networks and Affiliates	)	

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**COMMENTS OF CHRONICLE BROADCASTING COMPANY,
LIN TELEVISION CORPORATION,
MIDWEST TELEVISION, INC.,
THE PROVIDENCE JOURNAL COMPANY, AND
SPARTAN COMMUNICATIONS, INC.**

Chronicle Broadcasting Company,[1/] LIN Television Corporation,[2/] Midwest Television, Inc.,[3/] The Providence Journal Company,[4/] and Spartan Communications, Inc.[5/] (the "Joint Commenters"), licensees of more than two dozen network-affiliated television stations in every region of the United States, urge the Commission not to adopt the recommendations in the *Notice of Proposed Rulemaking* in this docket to repeal or amend the right to reject rule, the time option rule, and the exclusive affiliation rule.

1/ Chronicle Broadcasting Company owns Stations KRON-TV, San Francisco, California; WOWT(TV), Omaha, Nebraska; and KAKE-TV, Wichita, Kansas.

2/ LIN Television Corporation owns Stations WAVY-TV, Portsmouth, Virginia; KXAS-TV, Fort Worth, Texas; KXAN-TV, Austin, Texas; WISH-TV, Indianapolis, Indiana; WANE-TV, Fort Wayne, Indiana, WAND(TV), Decatur, Illinois; WTNH-TV, Hartford, Connecticut; and WIVB-TV, Buffalo, New York.

3/ Midwest Television, Inc. owns Stations WCIA(TV), Champaign, Illinois; WMBD-TV, Peoria, Illinois; and KFMB-TV, San Diego, California.

4/ The Providence Journal Company owns Stations KING-TV, Seattle, Washington; KGW-TV, Portland, Oregon; KREM-TV, Spokane, Washington; KTVB(TV), Boise, Idaho; KHNL(TV), Honolulu, Hawaii; WCNC-TV, Charlotte, North Carolina; WHAS-TV, Louisville, Kentucky; KMSB-TV, Tucson, Arizona; and KASA-TV, Albuquerque, New Mexico.

5/ Spartan Communications, Inc. owns Stations WSPA-TV, Spartanburg, South Carolina; WBTW(TV), Florence, South Carolina; KIMT(TV), Mason City, Iowa; WMBB(TV), Panama City, Florida, WJBF(TV), Augusta, Georgia, WRBL(TV), Columbus, Georgia; and KWCH-TV, Wichita, Kansas.

We strenuously oppose any restraint on our freedom of choice in programming. That freedom is an integral part of our ability to provide, as we are required to, superior, diverse programming that serves the interest of our local communities of license.

Without a variety of sources from which to obtain programming, the unfettered capacity to reject network programs, and the exclusive control over scheduling of formats, broadcasters are hampered in fulfilling their duty to the public. Networks continue to have great power over affiliates because we depend heavily upon network affiliation for our survival in a competitive and fragmented marketplace. These three rules are necessary to afford some protection to affiliates as we strive to deliver diverse, beneficial programming of interest to our viewers. We urge the Commission to maintain its commitment to our system of broadcasting, which is admired throughout the world, by retaining the core network-affiliate rules in their present form.

I. The Right to Reject Rule is The Cornerstone Protection Which Enables Broadcasters to Vigorously Serve the Public Interest and its Modification Would Create An Unnecessary Administrative Burden.

Since the beginning of broadcast regulation, stations have had a clear duty to serve the public interest. As broadcasters, we must carefully review programming options and offer to our viewers only that which we deem would best suit their needs. Under the Commission's proposal, however, broadcasters would be stripped of a key instrument of selection -- the unrestricted right to reject network programming.

The Commission proposes to eliminate financial interests as a factor that stations may consider in deciding whether to reject network programming. Broadcasters, however, should be free to reject network programming for any reason, even if the motivation for the rejection of a particular program appears to be financial concerns. Broadcasters may be making a conscious decision to secure funds for the production of public-minded, but costly, programs. As a practical matter, most stations will broadcast much of their network's programming if it appears congruous with the interests of their viewers. But it is crucial that broadcasters have the "safety net" of being able to reject network programming they find unsuitable without having to endure an inquisition into the purity of their motives.

Stations evaluate a variety of factors in determining whether to broadcast a particular network program. Forcing affiliates to explain and support each programming decision with which their network disagrees would create an abundance of administrative work which will divert much-needed affiliate resources from the task of selecting appropriate programming. Further, the networks would gain an enormous degree of additional leverage vis-a-vis the affiliates in their bargaining relationships through their ability to question virtually all affiliate rejection of their programs.

Broadcasters will not be the only ones to face new administrative hurdles. The Commission, itself, would need to wade through each rejection-of-programming dispute. This type of mediation is unnecessary, time-consuming, and constitutionally questionable. Moreover, the very threat of such a dispute is likely to encourage some affiliates to broadcast virtually every network program and, therefore, abdicate their clear duty to diligently select programming that serves the public interest.

II. The Time Option Rule is Essential to the Maintenance of Broadcaster Control Over Their Programming.

In accordance with their duty to select programs which serve the public interest, affiliates must retain control over their programming. Option time provisions make it extremely difficult for broadcasters to plan their programming formats in advance. It is important that broadcasters have the time to meticulously select their programming to ensure that it adequately serves the needs of their viewers.

By lifting the prohibition on option time, local programming will be shifted commensurate with the needs of the network. As a consequence, local programming will suffer from inconsistent audience attention. Local businesses would be reluctant to advertise their products and services on affiliated stations because they would not be able to depend on a certain time for broadcast.

Programming from new networks may decline if they cannot maintain a consistent following among viewers. Knowing that they may be "bumped" in favor of programs produced by the existing networks, new networks may be discouraged from producing new programs or from airing those programs on network-affiliated stations. As network-affiliated stations, we would like to increase the variety of programs that we can offer our viewers by broadcasting new network programs when possible and practicable. Option time practices, however, would preclude many currently available channels for programming, rendering stations less able to select and broadcast diverse programming. This result would disadvantage new competitors and adversely affect viewpoint and programming diversity.

III. The Exclusive Affiliation Rule Enables Broadcasters to Provide Alternative Programming that May be of Interest to Their Viewers.

The exclusive affiliation prohibition is of fundamental importance to affiliated stations. Exclusive affiliation agreements require broadcasters to accept only the programming of their associated networks. The ban on exclusive affiliation agreement, like the right to reject rule, safeguards affiliate freedom to decide which programming to broadcast.

The reappearance of exclusive affiliation agreements will prevent broadcasters from taking advantage of new and interesting programming offered by the new networks, UPN and WB, which may be of interest to viewers. The Commission's proposal indicated that such a prohibition is unnecessary in large markets, but we strongly disagree. As affiliates in large and small markets, we value the freedom that currently exists to broadcast programming that is not produced by our respective networks. Although there has been an addition of many new affiliates to major markets in recent years which can broadcast the programs of the two new networks without restriction, we would like to be able to offer those new programs to our viewers as well when circumstances permit. Our broadcast of independent or new network programming reaches a larger audience than that of most non-affiliated stations and we can, therefore, offer that diversity to more of the public.

These limitations on program availability would compromise our ability to deliver diverse programs to the public. Under the proposal, affiliates would become little more than clearinghouses for network programming instead of the independent and thoughtful broadcasters that the public has every right to demand.

V. Conclusion

The right to reject rule, option time rule, and exclusive affiliation rule must be preserved in their entirety if we are to continue to promote our system of broadcasting as we know it. Affiliates must be able to maintain control over program selection and must actively strive to promote program diversity for the public. Most significantly, affiliates must never delegate their duty to select programs which serve the public interest. Retention of these three network-affiliate rules is essential to the broadcaster's ability to satisfy that duty. The proposals of the Notice should be rejected.

Respectfully submitted,

CHRONICLE BROADCASTING COMPANY
LIN TELEVISION CORPORATION
MIDWEST TELEVISION, INC.
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